

Reconsideration of the above-identified application is respectfully requested in view of the following remarks:

Remarks

Claim 1 has been amended by incorporating therein the limitations of original claim 9. Thus, claim 1 is now directed to a film which is in the form of a microfilament thread having a specified width. The Examiner will kindly note that the width is now recited as being from "0.13 to 0.3 mm." Support for the lower range is explicitly set forth at page 7, lines 2 and 24 of the instant specification. Further, claim 1 has been amended to state that the film is not laminated to any backing film. Support for this limitation is believed to be set forth at page 2, line 17 – page 3, line 2 of the instant specification. In this passage, it is stated that the prior art required that, to be formed into a thread, the multilayered film had to be laminated to a surface to provide the necessary mechanical strength. In accordance with the present invention, the film can be converted into threads by slitting the film without a backing. The addition of a backing changes the original thickness and degrades the feel of the thread. Thus, it is implicit that the threads of the present invention are not formed by slitting a film which is laminated to a separate backing material to provide strength.

Claim 9 has been cancelled. Claim 23 has been added and describes a preferred embodiment of this invention where the multilayer film is formed from alternating layers of polybutylene terephthalate and polymethyl methacrylate. Support for this limitation is explicitly set forth in Example 1 of the present application.

Claims 1-9 have been rejected under the judicially created doctrine of obviousness-type double patenting as being unpatentable over claims 1-9 of U.S. Patent No. 5,451,449 to Shetty et al. in view of U.S. Patent No. 6,602,585 to Graney. The rejection is respectfully traversed.

First, none of the claims of Shetty et al. are concerned with a microfilament thread. The Examiner dismisses this limitation by stating that the change of the shape or size of the film does not differentiate over the film of Shetty et al. Applicants strongly disagree. The Examiner simply cannot ignore limitations in the claims. There is no discussion in Shetty et al. whatsoever that the film is in the form of a microfilament thread having the specified width. The claims of Shetty et al. do not recite this important limitation of the present claims. The Examiner's reliance on an apparatus case to dismiss the limitation that the film is in the form of a thread of specified dimensions is not understood. Applicant is claiming a specific article. This article has claimed dimensions. Shetty does not disclose or claim such dimensions, and therefore does not recite the claimed invention.

The Examiner relies upon Graney to teach orientation of the film. Applicant again asserts that the application of Graney is improper, even in an obviousness-type double patenting rejection, inasmuch as the Examiner is relying upon the disclosure of Graney to make up for the deficiencies in the claims of Shetty et al. Since Graney was filed subsequent to the filing date of the present application, the Graney disclosure is not available as a reference. Under the Examiner's logic, a disclosure in a patent which issues from an application filed years after the filing date of a subject application would still be applicable in an obviousness-type double patenting rejection, even though such disclosure could not be used against novelty under 35 USC 102. Clearly that is improper. It is believed that the rejection of obviousness-type double patenting over Shetty et al. in view of Graney is improper for two reasons, 1) neither of the patents remotely disclose or claim the microfilament thread which is claimed, 2) nor can Graney be applicable as showing orientation of a multilayer film since it is not an effective reference against claims due to its later filing date.

The Examiner will kindly note that the applied secondary reference to Schrenk et al. discloses orientation of a multilayer film. Regardless, neither Shetty et al. nor any of the

applied art claims the specific strength values which are set forth in the claims. This is more than mere optimization since the Examiner has not pointed to anywhere in any reference where orientation is used to increase the tensile strength of the film. The Examiner has certainly not pointed to any disclosure in any reference in which the values as set forth are remotely considered or desired. Accordingly, it is respectfully requested that the rejection based on obviousness-type double patenting be withdrawn.

Claims 1-4 and 6-7 have been rejected under 35 USC 103(a) as being obvious over Shetty et al. in view of Bland et al. (U.S. 5,427,842). Inasmuch as claim 9 was not incorporated into this rejection, and since the limitations of claim 9 have now been incorporated into claim 1, it is not believed that this rejection is applicable to the present claims.

Claims 5 and 8 have been rejected under 35 USC 103(a) as being obvious over Shetty et al. in view of Bland et al. and further in view of Shetty et al. (U.S. 5,089,318). Again, this rejection does not consider the limitations of claim 9, which are now incorporated into claim 1. Accordingly, it is believed that this rejection is no longer applicable to the present claims.

Claim 9 has been rejected under 35 USC 103(a) as being obvious over Shetty et al. in view of Bland et al. and further in view of Schrenk et al. (U.S. 3,647,612). Shetty et al. is applied as disclosing a film that has not been oriented. Shetty et al. discloses a multilayer film. Regarding the limitations of claim 9, which are incorporated into claim 1, the Examiner states that Shetty et al. does not disclose forming a film into a microfilament thread having the specified width. The Examiner states, however, that Shetty et al. provides the same film, and that the claimed limitation that the film is formed in the form of a thread of a particular width is not in itself construed to be a matter of invention. The Examiner states it is well known to change the shape and size of a film that happens to be the same material commensurate with the use. The Examiner states that a film formed as a thread having the specified width is a mere optimizable adjustment, as width is a result-effective property, and

the width affects the strength. The Examiner applies Bland et al. as disclosing orienting a multilayer film. The Examiner also applies Schrenk et al. as teaching an iridescent multilayer film which is slit into narrow filaments. The Examiner concludes it would have been obvious to one of ordinary skill in the art to modify the film of Shetty et al. to produce a filament as claimed, because Schrenk et al. teaches a similar material slit into filaments to form yarn or fibers. The rejection is respectfully traversed.

For every limitation of claim 1 that Shetty et al. does not disclose, the Examiner simply dismisses such limitation and says such limitation is optimizable. Applicants have found that a multilayer, iridescent film such as that claimed can be formed into an iridescent thread of a specified width and thickness and have a sufficient specified strength due to uniaxial orientation that the thread need not be formed of a multilayer film which is laminated to a stiffening backing layer. None of the art cited by the Examiner discloses uniaxially orienting a multilayer film to yield the claimed tensile strength. The orientation of the film to achieve the claimed tensile strength is not obvious when none of the references remotely disclose desired tensile strengths to be achieved. Applicants have produced a multilayer film article which is oriented to achieve a particular range of tensile strength which is specified in the claims. Applicants have now further defined the claimed article as directed to a multilayer iridescent film which is uniaxially oriented to achieve a particular tensile strength range, has a particular thickness, and is in the form of a microfilament thread having a particular width. None of these particular values are remotely suggested in the art. While Schrenk et al. indeed discloses slitting a multilayer film into threads, it is not at all clear Schrenk et al. considered that orienting the film before forming a thread would be useful, nor does Schrenk et al. remotely suggest orienting the film to achieve the specified tensile strength. As set forth in the instant specification at the bottom of page 2, the prior art in order to form threads from multilayered films had to laminate the iridescent film to a backing layer to provide the desired strength. In the present invention, this backing layer is eliminated by

orienting the multilayer iridescent film to achieve the desired and claimed tensile strength. Schrenk et al. does not suggest the benefit of orienting the film to achieve improved strength so that the film can be formed into a thread without a backing layer. Accordingly, it is believed that the claims set forth a particular article which is not remotely suggested in Shetty et al., and that the secondary references to Bland et al. and Schrenk et al. do not make up for the deficiencies of Shetty et al. of reciting a particular multilayer microfilament thread having specified dimensions formed from a film having a specified tensile strength. It is respectfully requested that the rejection be withdrawn.

Claims 1-4 and 6-7 have been rejected under 35 USC 103(a) as being obvious over Shetty et al. in view of Cobb et al. (U.S. 5,825,542). Again, since this rejection did not consider the limitations of claim 9, it is not believed this rejection is pertinent to the claimed invention.

The Examiner will kindly note that added claim 23 sets forth a specific combination of polybutylene terephthalate and polymethyl methacrylate for the contiguous adjacent layers of the multilayer film. It is believed that this is a further limitation that is not suggested in the secondary reference, and while Shetty et al. may disclose such adjacent layers, the primary reference does not teach that a film of such adjacent layers can be formed into a useful thread.

In view of the above remarks, it is believed that claims 1-8 and 23 patentably distinguish over the art of record, and applicants respectfully solicit favorable action on these claims.

Respectfully submitted,

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Date



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